

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

MICHAEL KENNEDY, §
Plaintiff, §
v. § Case No. 6:19-CV-219-JDK-JDL
TDCJ-ID DIRECTOR, §
Defendant. §
§

**ORDER ADOPTING REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

Petitioner Michael Kennedy, proceeding pro se, filed this application for writ of habeas corpus under 28 U.S.C. § 2254 complaining of the legality of his conviction. Docket No. 1. The case was referred to United States Magistrate Judge John D. Love, who issued a Report and Recommendation concluding that the petition should be dismissed without prejudice until Petitioner demonstrates that all the sanctions imposed against him, either by the Fifth Circuit or any courts within the jurisdiction of the Fifth Circuit, have been satisfied. Docket No. 3. On June 4, 2019, Plaintiff received a copy of the Magistrate Judge's Report and Recommendation. Docket No. 5. The Report and Recommendation informed Petitioner of his rights to object within 14 days. Docket No. 3. Petitioner did not file objections.

This Court reviews the findings and conclusions of the Magistrate Judge de novo only if a party objects. 28 U.S.C. § 636(b)(1). In conducting a de novo review, the Court examines the entire record and makes an independent assessment under the law. *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (en banc), superseded on other grounds by statute, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten

to fourteen days). Because Petitioner filed no objections, the Court will review the Magistrate Judge's findings for clear error or abuse of discretion and will review his conclusions to determine whether they are contrary to law. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989), *cert. denied*, 492 U.S. 918 (1989) (holding that, if no objections are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law").

Having reviewed the findings and conclusions of the Magistrate Judge, the Court agrees with the Magistrate Judge. Petitioner has not yet provided any proof that the sanctions against him have been satisfied. The Court therefore adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of the Court. It is accordingly

ORDERED that the above-styled petition for writ of habeas corpus be and hereby is **DISMISSED WITHOUT PREJUDICE** until such time as Petitioner Michael Kennedy demonstrates that all of the sanctions imposed upon him by the Fifth Circuit Court of Appeals or by any court within the jurisdiction of the Fifth Circuit have been satisfied. Petitioner cannot refile this petition until such a showing is made. It is further

ORDERED that the Petitioner Michael Kennedy is hereby **DENIED** a certificate of appealability *sua sponte*. Finally, it is

ORDERED that any and all pending motions are **DENIED**.

So **ORDERED** and **SIGNED** this 11th day of July, 2019.



JEREMY D. KERNODLE
UNITED STATES DISTRICT JUDGE